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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/040,755	12/28/2001	David Harriman	42390.P13766	3565

7590

09/10/2003

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EXAMINER

PHILPOTT, JUSTIN M

ART UNIT

PAPER NUMBER

2665

DATE MAILED: 09/10/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/040,755

Applicant(s)

HARRIMAN, DAVID

Examiner

Justin M Philpott

Art Unit

2665

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 June 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-15 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 28 December 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-4, 6-9 and 11-14 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 5,390,298 to Kuszmaul et al.

Regarding claims 1, 6 and 11, Kuszmaul teaches a system (e.g., FIG. 1) comprising a transmitting device (e.g., 14) to transmit a packet header for a message request transaction, the packet header (e.g., packet header 61 in FIG. 7) including a first field (e.g., 64) to indicate one of a plurality of message groups (e.g., single source or multiple source message groups, see col. 20, line 45 – col. 21, line 33); and a receiving device (e.g., 11) coupled to the transmitting device to receive the packet header.

Regarding claims 2, 7 and 12, Kuszmaul teaches the packet header (e.g. 61) further includes a second field (e.g., 65) to indicate whether data (e.g., configuration information) is included with the message request transaction (e.g., see col. 21, line 62 – col. 22, line 7).

Regarding claims 3, 8 and 13, Kuszmaul teaches the packet header (e.g., 61) further includes a message code field (e.g., 66, also see col. 22, lines 29-31).

Regarding claims 4, 9 and 14, Kuszmaul teaches the second field (e.g., 65) is a format field (e.g., single source or multiple source packet type).

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 5, 10 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kuszmaul.

Regarding claims 5, 10 and 15, Kuszmaul teaches the system as discussed above regarding claims 4, 9 and 14 and, further, teaches the first field (e.g., 64) is a sub-field comprising bit information from a type field (e.g., indicating single source or multiple source message groups) and bit information from an extended type field (e.g., indicating abstain, idle and nil messages).

However, Kuszmaul may not specifically disclose the type field comprises exactly one bit and the extended type field comprises exactly two bits. However, Kuszmaul further teaches the first field is part of a flick, also comprising scan flow, and each flick may have five bits (e.g., see col. 20, line 25). Accordingly, in the example of Kuszmaul, the first field comprises at most four bits. While Kuszmaul may not specifically designate one bit to indicate SS/MS type, and/or two bits to indicate ABS/IDLE/NPAC extended type, the Examiner takes official notice that it is well known in the art to utilize one bit to designate two choices (e.g., SS or MS) and utilize two bits to designate three choices (e.g., ABS/IDLE/NPAC). Moreover, it is generally considered to be within the ordinary skill in the art to adjust, vary, select or optimize the numerical parameters

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or values of any system absent a showing of criticality in a particular recited value. The burden of showing criticality is on Appellant. In re Mason, 87 F.2d 370, 32 USPQ 242 (CCPA 1937); Marconi Wireless Telegraph Co. v. U.S., 320 U.S. 1, 57 USPQ 471 (1943); In re Schneider, 148 F.2d 108, 65 USPQ 129 (CCPA 1945); In re Aller, 220 F.2d 454, 105 USPQ 233 (CCPA 1955); In re Saether, 492 F.2d 849, 181 USPQ 36 (CCPA 1974); In re Antonie, 559 F.2d 618, 195 USPQ 6 (CCPA 1977); In re Boesch, 617 F.2d 272, 205 USPQ 215 (CCPA 1980). Thus, at the time of the invention it would have been obvious to one of ordinary skill in the art to designate the type field to comprise one bit and the extended type field to comprise two bits, since it is generally considered to be within the ordinary skill in the art to adjust, vary, select or optimize the numerical parameters or values of any system absent a showing of criticality in a particular recited value.

Conclusion

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

U.S. Patent No. 6,084,869 to Fishman et al. discloses a packet header for a message request transaction including a field to indicate one of a plurality of message groups.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Justin M Philpott whose telephone number is 703.305.7357. The examiner can normally be reached on M-F, 9:00am-5:00pm.


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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Huy D Vu can be reached on 703.308.6602. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703.305.4750.

Justin M Philpott

Jmf



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